

UNITED STATES BANKRUPTCY COURT FOR THE  
EASTERN DISTRICT OF WISCONSIN

IN RE  
The Big Whale, LLC  
  
Debtor.

Chapter: 11  
  
Case No. 11-23756-JES

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**OBJECTION OF WELLS FARGO BANK, N.A., AS INDENTURE TRUSTEE FOR  
AMERICAN HOME MORTGAGE INVESTMENT TRUST 2004-2 TO  
CONFIRMATION OF DEBTORS' MODIFIED PLAN**

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Wells Fargo Bank, N.A., as Indenture Trustee for American Home Mortgage Investment Trust 2004-2, a secured creditor, by its attorneys, Gray & Associates, L.L.P., objects to the confirmation of the proposed modified plan:

1. The creditor holds a secured interest in the real estate located at 2335 N 65th St, Wauwatosa, WI 53213-1426.
2. The modified plan does not comply with the provisions of Chapter 13 in that:
  - (a) The creditor has not accepted the modified plan;
  - (b) The modified plan proposes to pay the outstanding debt due the creditor at a fixed interest rate of 4.5%. The creditor believes the interest rate should be 5.0%.
  - (c) The modified plan proposes to make monthly mortgage payments to the creditor on the twentieth (20<sup>th</sup>) day of the month. The creditor believes payments should be due on the first (1<sup>st</sup>) day of each month as presently required by the pre-petition loan documents.

Drafted by:

Jay Pitner  
Gray & Associates, L.L.P.  
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Gray & Associates, L.L.P. is attempting to collect a debt and any information obtained will be used for that purpose. If you have previously received a discharge in a chapter 7 bankruptcy case, this communication should not be construed as an attempt to hold you personally liable for the debt.

3. The foregoing prevents confirmation of the debtors' modified plan pursuant to 11 U.S.C. section 1325.

4. The creditor's legal fees associated with this objection are \$400.00.

WHEREFORE, an objection is made to the confirmation of the modified plan, the creditor demands an award of its legal fees and costs associated with this objection, that a hearing upon this objection be scheduled and that the clerk issue notice of said hearing to the appropriate parties and that the secured creditor be awarded such and further relief as the court may deem to be just and equitable.

Dated this 15th day of August, 2011.

Gray & Associates, L.L.P.  
Attorneys for Creditor

By: \_\_\_\_\_/s/\_\_\_\_\_  
Jay Pitner  
State Bar No. 1010692

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**AFFIDAVIT OF SERVICE**

STATE OF WISCONSIN     )  
                                      )ss  
WAUKESHA COUNTY        )

Michelle M. Neil, being first duly sworn on oath deposes and says that I am an employee of the firm of Gray & Associates, L.L.P., attorneys for movant identified herein, and that on the 16<sup>th</sup> day of August, 2011, I electronically filed the annexed objection to confirmation of modified plan and that copies of these documents were mailed, properly enclosed in a postage paid envelope, or served electronically if the party accepts electronic service, to the following:

Eastern District U.S. Trustee  
517 E. Wisconsin Avenue, Room 430  
Milwaukee, WI 53202

Justin M. Mertz  
757 N Broadway Ste 300  
Milwaukee, WI 53202-3645

\_\_\_\_\_/s/\_\_\_\_\_  
Michelle M. Neil

Subscribed and sworn to before me  
this 16<sup>th</sup> day of August, 2011.

\_\_\_\_\_/s/\_\_\_\_\_  
Laura Thoma, Notary Public  
State of Wisconsin  
My commission expires: 09/21/2014.